

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

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|----------------------------|---|----------------------------------|
| BYRON CHAPMAN, |) | |
| |) | 2: 04-cv-337-GEB-JFM |
| Plaintiff, |) | |
| |) | |
| v. |) | <u>ORDER TO SHOW CAUSE AND</u> |
| |) | <u>CONTINUING FINAL PRETRIAL</u> |
| JAY and HELEN LEWIS TRUST, |) | <u>CONFERENCE</u> |
| |) | |
| Defendant. |) | |
| |) | |
| _____ |) | |

By order filed August 9, 2004, a final pretrial conference was scheduled in this case for January 9, 2006. The parties were required to file a joint pretrial statement "not later than seven (7) days prior to the final pretrial conference." (August 9 Order at 5.) Defendant failed to file a joint pretrial statement. Due to defendant's failure to timely file the joint pretrial statement as ordered, the final pretrial conference is reset to February 27, 2006 at 2:30 p.m.

Defendant and its counsel are ORDERED TO SHOW CAUSE (OSC), by filing a written statement, not later than January 11, 2006, why the Court should not issue sanctions for their failure to

1 file a joint statement under Rule 16(f) of the Federal Rules of
2 Civil Procedure as ordered. The written responses should indicate
3 whether the defendant or its counsel is at fault and whether a
4 hearing is requested on the OSC.¹ If a hearing is requested, the
5 parties will be heard at 2:30 p.m. on February 27, 2006. Defendant
6 is warned that failure to comply with this order could result in
7 its answer being stricken and a default judgment entered against
8 defendant.

9 IT IS SO ORDERED.

10 Dated: January 9, 2006

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12 /s/ Garland E. Burrell, Jr.
13 GARLAND E. BURRELL, JR.
14 United States District Judge
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25 ¹ "If the fault lies with the attorney, that is where the
26 impact of sanction should be lodged. If the fault lies with the
27 clients, that is where the impact of the sanction should be
28 lodged." Matter of Sanction of Baker, 744 F.2d 1438, 1442 (10th
Cir. 1984), cert. denied, 471 U.S. 1014 (1985). Sometimes the
faults of attorneys, and their consequences, are visited upon
clients. In re Hill, 775 F.2d 1385, 1387 (9th Cir. 1985).